



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

FALL MOUNTAIN REGIONAL SCHOOL DISTRICT
PROFESSIONAL TEACHERS ASSOCIATION/NEA-
NEW HAMPSHIRE

Complainant

v.

FALL MOUNTAIN SCHOOL BOARD

Respondent

CASE NO. T-0227:5

DECISION NO. 88-72

APPEARANCES

Representing Fall Mountain Professional Teachers Association:

Mary E. Gaul, Director Region III NEA

Representing Fall Mountain School Board:

Jay C. Boynton, Esq., Counsel

Also appearing:

Harry S. Westcott, Superintendent of Schools
Susan Glimenakis, Teacher
William Hollis, Teacher
Martin Mahoney, Principal

BACKGROUND

On February 26, 1988, Mary E. Gaul filed unfair labor practice charges on behalf of the Fall Mountain Regional School District Professional Teachers Association (Association) specifically, Susan Glimenakis, charging the School Board was in violation of RSA 273-A section 5 I (a), (b), (c), (d), (e), (g), (h) and (i) alleging improper payment during pregnancy leave - (this part of the charge was settled by the School Board on or about March 4, 1987), and the Board's refusal to return Ms. Glimenakis to her former position at the Walpole School upon return from maternity leave, thus breaching the collective bargaining agreement. As a remedy the Association sought the reinstatement of Ms. Glimenakis to her former position at the Walpole School.

Hearing was held on July 12, 1988 at the Public Employee Labor Relations Board office in Concord, New Hampshire.

The parties agreed on a number of exhibits which were accepted as joint submissions.

Representative for the Association, Mary Gaul, stated the unfair labor practice was failure to return Glimenakis to her position after leave of absence thus breaching the contract language on return rights.

Attorney Boynton, Esq. for the School Board stated that Glimenakis had been given a contract to teach 4th grade in the North Walpole School and that a grievance had been filed and disposed of in this matter. In addition, the issue had been appealed to the Human Rights Commission and through other forums, i.e., the grievance has been settled at the School Board level and that decision is final.

The Board recessed to discuss procedural rules.

Witness for the petitioner testified on his role as advisor to the teacher association, assistance in the process of grievance filing, as a member of the negotiating committee and on the intent of the contract language. Attorney Boynton in cross-examination of the witness elicited information on the writing of the grievance for Glimenakis, other past grievances and the procedure under advisory arbitration.

FINDINGS OF FACT

1. Susan Glimenakis was a classroom teacher and lead teacher at the Walpole School.
2. On June 15, 1986 Glimenakis in a letter to Dr. Wescott, Superintendent of Schools applied for a paid leave of absence (maternity) for six weeks starting August 29, 1988 in accordance with 11.2 of the contract.
3. At the same time she requested a temporary leave beyond the six weeks, immediately after the expiration of the six (6) week maternity leave under provision 11.2 of the contract. Both leaves were granted.
4. Glimenakis later requested and was granted another extension of her leave, as unpaid leave thru the end of the school year, June 1987.
5. During this time, a substitute teacher was hired to fill the vacancy; 1st for the normal pregnancy leave, then the six (6) week extension, and finally the balance of the school year ending in June 1987.
6. On March 31, 1987, Glimenakis was tendered a contract for the '87-'88 school year as a grade four (4) teacher in North Walpole.
7. She requested an extension from the April 15 deadline to May 31, 1987 before signing her contract, stating no reason for the requested extension.
8. Request for the extension was denied by the superintendent and she subsequently signed her contract with a proviso.

9. On April 23, 1987 Glimenakis filed a grievance under the master agreement on the basis that she had been offered a contract which did not return her to the exact position held at the time leave of absence was granted.
10. The grievance was heard on June 2, 1987 in accordance with the provision under the contract and was denied.
11. Glimenakis on August 27, 1987 submitted her resignation as a teacher in the North Walpole School stating as a reason the failure to be returned to her specific grade two (2) teaching position and lead teacher in Walpole.
12. Glimenakis grieved the issue of her return to work in accordance with Article IX; 11.7, 11.11 of the master contract and elected the option provided in Article X; 10.3, level C of the procedure, the school board who makes the final decision, thereby waiving her right to advisory arbitration after withdrawal of her first request for arbitration before AAA.
13. Counsel for the School Board renewed his motion to dismiss the complaint based on the facts presented.

Association's Request for Findings:

- #1-2-3 Granted.
- #4 Denied. No evidence presented to substantiate this conclusion.
- #5-6 Granted.
- #7 Denied. Request for arbitration withdrawn.
- #8-9-10-11-12 Granted.
- #13 Denied. No specifics as to duration of the replacement's employment.
- #14-15 Denied.
- #16-17-18-19 Granted.
- #20 Denied.
- #21-22 Granted.
- #23 Denied. No evidence of forcing action.
- #24-25 Denied.
- #26 Granted.
- #27 Denied. The parties agreed to the procedure.
- #28 Granted.
- #29-30 Denied.

School District's Request for Findings:

#1-25 Granted.

#26 Denied.

#27 Granted.

#28 See PELRB decision

DECISION AND ORDER

After review of all evidence before the Board, we find and ORDER: -

1. No breach of the language concerning rights of returning employees nor any evidence of retaliation against Ms. Glimenakis for union activities or the filing of a grievance.
2. The charges of unfair labor practice and violation of RSA 273-A are DISMISSED.
3. All other requested remedies are also denied.

Signed this 3rd day of November, 1988.


EDWARD J. HASELTINE
Chairman

By unanimous vote: Edward J. Haseltine, Chairman presiding. Present and voting: Members Seymour Osman and James C. Anderson. Also present, Executive Director, Evelyn C. LeBrun.